

EXECUTIVE REORGANIZATION ORDER NO. 36

Governor Sam Brownback

Section 1. (a) The Kansas department of wildlife and parks as established by K.S.A. 32-801 *et seq.* is hereby renamed the Kansas department of wildlife, parks and tourism and the secretary of wildlife and parks is hereby renamed the secretary of wildlife, parks and tourism.

(b) Except as otherwise provided by this order, the Kansas department of wildlife, parks and tourism and the secretary of wildlife, parks and tourism shall be the successor in every way to the powers, duties and functions of the Kansas department of wildlife and parks and the secretary of wildlife and parks in which the same were vested prior to the effective date of this order. Every act performed in the exercise of such powers, duties and functions by or under the authority of the Kansas department of wildlife, parks and tourism or the secretary of wildlife, parks and tourism shall be deemed to have the same force and effect as if performed by the Kansas department of wildlife and parks or the secretary of wildlife and parks in which such powers, duties and functions were vested prior to the effective date of this order.

(c) Whenever the Kansas department of wildlife and parks, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the Kansas department of wildlife and parks, such reference or designation shall be deemed to apply to the Kansas department of wildlife, parks and tourism.

(d) Whenever the secretary of wildlife and parks, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the secretary of wildlife and parks, such reference or designation shall be deemed to apply to the secretary of wildlife, parks and tourism.

(e) All rules and regulations, orders and directives of the secretary of wildlife and parks that are in

effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the secretary of wildlife, parks and tourism until revised, amended, revoked or nullified pursuant to law.

Sec. 2. (a) The secretary of wildlife, parks and tourism shall appoint an assistant secretary for wildlife, fisheries and boating and an assistant secretary for parks and tourism. The assistant secretaries shall serve at the pleasure of the secretary of wildlife, parks and tourism. The assistant secretaries shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of wildlife, parks and tourism with the approval of the governor. The assistant secretaries shall have such powers, duties and functions as are assigned to them by the secretary or are prescribed by law. The assistant secretaries shall act for and exercise the powers of the secretary of wildlife, parks and tourism to the extent authority to do so is delegated by the secretary of wildlife, parks and tourism.

(b) The position of assistant secretary for operations as established by K.S.A. 32-802 is hereby abolished.

Sec. 3.(a) There is hereby established, within the Kansas department of wildlife, parks and tourism, the division of tourism. The head of the division of tourism shall be the director of tourism, who shall be appointed by and serve at the pleasure of the secretary of wildlife, parks and tourism. The director of tourism shall be in the unclassified service under the Kansas civil service act and shall receive an annual salary fixed by the secretary of wildlife, parks and tourism.

(b) (1) The director of tourism shall appoint, in accordance with the provisions of the Kansas civil service act, such employees as may be needed, in the judgment of the director, to carry out the powers and duties of the division of tourism.

(2) All officers and employees of the division of tourism shall act for and exercise the powers of the director of tourism to the extent that authority to do so is delegated by the director. Subject to the provisions of this order, the director of tourism may organize the division of tourism in the manner the director of tourism deems most efficient.

Sec. 4. (a) The division of travel and tourism development of the department of commerce and the office of the director of travel and tourism development of the department of commerce that were created by K.S.A. 74-5032, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this order, all powers, duties and functions of the division of travel and tourism development and the director of travel and tourism development under K.S.A. 74-5032 and 74-5032a, and amendments thereto, are hereby transferred to and imposed upon the division of tourism and the director of tourism of the Kansas department of wildlife, parks and tourism.

Sec. 5. (a) Except as otherwise provided by this order, the division of tourism and the director of tourism of the Kansas department of wildlife, parks and tourism shall be the successor in every way to the powers, duties and functions of the division of travel and tourism development and the director of travel and tourism development of the department of commerce in which the same were vested prior to the effective date of this order and that are transferred pursuant to section 3 of this order. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the division of tourism and the director of tourism of the Kansas department of wildlife, parks and tourism shall be deemed to have the same force and effect as if performed by the division of travel and tourism development and the director of travel and tourism development of the department of commerce in which such powers, duties and functions were vested prior to the effective date of this order.

(b) Except as otherwise provided by this order, whenever the division of travel and tourism development of the department of commerce, or words of like effect, is referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the division of travel and tourism development of the department of commerce, such reference or designation shall be deemed to apply to the division of tourism of the Kansas department of wildlife, parks and tourism.

(c) Except as otherwise provided by this order, whenever the director of travel and tourism development of the department of commerce, or words of like effect, are referred to or designated by a statute, contract, or other document, and such reference or designation is in regard to any function, power or duty of the

director of travel and tourism development of the department of commerce, such reference or designation shall be deemed to apply to the director of tourism of the Kansas department of wildlife, parks and tourism.

(d) All rules and regulations, orders and directives of the secretary of commerce, that are in effect on the effective date of this order and that relate to any function, power or duty of the director of travel and tourism development of the department of commerce, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the secretary of wildlife, parks and tourism until revised, amended, revoked or nullified pursuant to law. All orders and directives of the division of travel and tourism development or the director of travel and tourism development of the department of commerce, that are in effect on the effective date of this order and that relate to any function, power or duty of the division of travel and tourism development or the director of travel and tourism development of the department of commerce, shall continue to be effective and shall be deemed to be orders and directives of the division of tourism or the director of tourism of the Kansas department of wildlife, parks and tourism until revised, amended, revoked or nullified pursuant to law.

Sec. 6. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the department of commerce relating to the powers, duties and functions transferred by this order are hereby transferred within the state treasury to the Kansas department of wildlife, parks and tourism and shall be used only for the purpose for which the appropriation was originally made.

(b) Liability for all accrued compensation or salaries of officers and employees who are transferred to the division of tourism of the Kansas department of wildlife, parks and tourism under this order shall be assumed and paid by the Kansas department of wildlife, parks and tourism.

Sec. 7. (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The Kansas department of wildlife, parks and tourism shall succeed to all property, property rights and records which were used for or pertain to the performance of powers, duties and functions transferred to the

division of tourism of the Kansas department of wildlife, parks and tourism. Any conflict as to the proper disposition of property, personnel or records arising under this order shall be determined by the governor, whose decision shall be final.

Sec. 8. (a) No suit, action or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this order, or by or against any officer of the state in such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this order.

Sec. 9. (a) All officers and employees of the department of commerce who, immediately prior to the effective date of this order, are engaged in the exercise and performance of the powers, duties and functions transferred by this order, as well as all officers and employees of the department of commerce who are determined by the secretary of wildlife, parks and tourism to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by this order, are hereby transferred to the division of tourism of the Kansas department of wildlife, parks and tourism. All classified officers and employees so transferred shall retain their status as classified employees.

(b) Officers and employees of the department of commerce transferred by this order shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer or employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the Kansas health policy authority prior to the date of transfer.

(c) Notwithstanding the effective date of this order, the provisions of this order prescribing the transfer of officers and employees from the department of commerce to the division of tourism of the Kansas department of wildlife, parks and tourism established by this order, the date of transfer of each such officer or employee shall commence at the start of a payroll period.

Sec. 10. Except as otherwise provided by this order, all of the provisions of this order shall take effect and have the force of general law on July 1, 2011, unless disapproved by either house of the Kansas legislature as provided by subsection (c) of section 6 of article 1 of the constitution of Kansas, and unless so disapproved, this order is to be published as and with the acts of the legislature and the statutes of this state.

DONE AT the Chase County Courthouse in
Cottonwood Falls

Under the Great Seal of the

State of Kansas this 26th day of January 2011.

BY THE GOVERNOR: _____

Sam Brownback

Dated: _____

Secretary of State of Kansas

Asst. Secretary of State of Kansas